UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.95
26 October 1998

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Nineteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Bolivia

1. The Committee considered the second periodic report of Bolivia (CRC/C/65/Add.1) at its 485th and 486th meetings (see CRC/C/SR.485-486), held on 25 September 1998, and adopted* the following concluding observations:

A. Introduction

2. The Committee welcomes the timely submission of the State party's second periodic report and takes note of the written answers to the list of issues (CRC/C/Q/BOL.2). The Committee is encouraged by the frank, self-critical and constructive dialogue the State party's delegation undertook with the Committee. The Committee also acknowledges that the presence of a delegation directly involved in the implementation of the Convention enabled it to assess better the situation of the rights of the child in the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee acknowledges the State party's commitment to the promotion and protection of human rights with the establishment of a Vice-Ministry for Human Rights within the new structure of the Ministry of Justice and Human Rights. The Committee also welcomes the establishment of the Office of the Human Rights Ombudsperson (Defensor del Pueblo) and the inclusion of children's rights within its mandate.

---

* At the 505th meeting, held on 9 October 1998.

4. The Committee expresses its appreciation of the enactment of the Popular Participation Act (1994), which establishes the principle of equal distribution per inhabitant of the joint resources from taxation allocated and transferred to regions, and seeks to correct the historical disparities between urban and rural areas. This initiative reflects the Committee's recommendation (see CRC/C/15/Add.1, para. 14). The Committee particularly welcomes the establishment, as part of the decentralization programme, of the municipal defence system for children.

5. The Committee notes with appreciation the participation of non-governmental organizations in the elaboration of the State party's second periodic report and in amending the Code of Minors (1992), in line with a recommendation of the Committee (see CRC/C/15/Add.1, para. 18).

6. The Committee notes with appreciation the adoption of the National Mother and Child Insurance Scheme (1996), under which public hospitals and health centres provide free care for all mothers, during pregnancy, childbirth and the post-natal period, and for all children up to five years of age.

7. In the light of the Committee's recommendation (see CRC/C/15/Add.1. para. 14), the enactment of the Educational Reform Act (1994), which makes the provision of educational services in the State party available to the whole society without any type of discrimination, is welcomed by the Committee.

8. The Committee welcomes the accession (1997) of the State party to International Labour Organization (ILO) Convention No. 138 concerning Minimum Age for Access to Employment.

C. Factors and difficulties impeding further progress in the implementation of the Convention

9. The Committee notes the persistence of large disparities in income distribution and is of the view that this problem, which has contributed to long-term hard-core poverty, is still affecting children's exercise of their rights.

10. The Committee notes that severe economic constraints, due in particular to structural adjustment programmes and external debt, are still having a negative impact on the situation of children.

D. Principal subjects of concern and Committee recommendations

11. While noting the measures taken by the State party to implement the recommendations of the Committee (see CRC/C/15/Add.1, para. 13) regarding the need to reform the Minors Code (1992), and taking into consideration the information provided on the forthcoming enactment of the Code for Children and Adolescents (Proyecto de Código de los Niños, Niñas y Adolescentes), the Committee remains concerned about some discrepancies between domestic legislation and the provisions of the Convention, as well as about the slow pace of the current process of reform. The Committee recommends that the State party take all available measures to ensure that the current process of reform of its legislation on children's rights is in full conformity with the

principles and provisions of the Convention. The Committee also recommends that the State party take all the necessary steps to accelerate the current process of reform.

12. With regard to the Committee's recommendation (see CRC/C/15/Add.1, para. 13) concerning the need to develop indicators for monitoring the implementation of policies and programmes for children, the Committee takes note of the State party's efforts to include some disaggregated data and other indicators in the periodic report and in the written replies. Nevertheless, it remains concerned that disaggregated data and indicators for all areas covered by the Convention were not included. The Committee recommends that the State party continue reviewing and updating its data collection system, with a view to including all the areas covered by the Convention. Such a system should include all children under 18 years of age and specifically emphasize vulnerable groups of children. In this regard, the Committee encourages the State party to seek technical assistance from UNICEF and other international agencies.

13. While the Committee takes note of the willingness of the State party to launch a major campaign on children's rights upon the enactment of the new Children and Adolescents Code (Código de los Niños, Niñas y Adolescentes), it expresses its concern at the lack of measures taken so far to implement its recommendation (see CRC/C/15/Add.1, para. 17) to disseminate information on the provisions of the Convention. The Committee recommends that the State party take all available measures to disseminate the principles and provisions of the Convention, especially in the three national languages other than Spanish (Aymara, Quechua and Guarani) spoken in the State party. The Committee suggests that the State party seek assistance from, inter alia, UNICEF in this regard.

14. The Committee welcomes the willingness of the State party to include a children's rights component, including the training of professionals working with and for children, in its technical cooperation programme with the Office of the High Commissioner for Human Rights/UNDP for the implementation of the State party's National Plan of Action on Human Rights. The Committee encourages the State party to continue with its efforts to provide sensitization programmes and training to all professional groups working with and for children, such as judges, lawyers, law enforcement and army officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, psychologists and social workers. Dissemination of the provisions and principles of the Convention to non-governmental organizations, the mass media and the public at large including children themselves, should be enhanced.

15. While the Committee is aware of the efforts undertaken by the State party to allocate substantial financial resources for the benefit of children, it reiterates its concern (see CRC/C/15/Add.1, para. 7) that the stringent budgetary measures and external debt, as well as the persistence of widespread poverty and uneven income distribution, are still having a negative impact on the situation of children in the State party. In the light of articles 2, 3 and 4 of the Convention, the Committee encourages the State party to continue undertaking all appropriate measures to the maximum extent of its available resources, including international cooperation, to continue ensuring that

sufficient budgetary allocation is provided to social services for children and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups. The Committee also recommends that the State party take children's rights into consideration in designing its social policies and programmes. Furthermore, the Committee encourages the State party to continue with its efforts to reduce the burden of its external debt, including the measures taken within the framework of the World Bank/ International Monetary Fund's initiative "Highly Indebted Poor Countries".

16. The Committee reiterates its concern (see CRC/C/15/Add.1, para. 8) regarding the implementation of article 1 and other related provisions of the Convention, owing to disparities in domestic legislation, especially concerning the minimum legal ages for access to work and for marriage. The Committee is also concerned about the use of the biological criterion of puberty to set different ages of maturity for boys and girls. This practice is contrary to the principles and provisions of the Convention and, inter alia, it constitutes a form of gender-based discrimination which affects the enjoyment of all rights. The Committee recommends that the State party introduce appropriate amendments to the draft code for children and adolescents (Proyecto de Código de los Niños, Niñas y Adolescentes) and raise the minimum legal ages for work and marriage, in order to bring it into full conformity with the principles and provisions of the Convention.

17. With regard to the implementation of article 2 of the Convention, the Committee reiterates its concern (see CRC/C/15/Add.1, para. 9) at the growing disparities between rural and urban areas, as well as the growing number of the population living in urban poor and marginalized areas. Furthermore, the predominance of discrimination on the basis of ethnic origin, gender, social status and disabilities is also a major concern. The Committee reiterates its recommendation (see CRC/C/15/Add.1, para. 14) to the State party and further recommends that it increase measures to reduce economic and social disparities, including between rural and urban areas, to prevent discrimination against the most disadvantaged groups of children, such as children belonging to indigenous communities, girl children, children with disabilities, children born out of wedlock and children who are living and/or working on the streets.

18. While the Committee notes that the principles of the "best interests of the child" (art. 3) and "respect for the views of the child" (art. 12) have been incorporated in domestic legislation, it remains concerned that in practice, as it is recognized in the report, these principles are not respected owing to the fact that children are not yet perceived as persons entitled to rights and that the rights of the child are undermined by adults' interests. The Committee recommends that further efforts be made to ensure the implementation of the principles of the "best interests of the child" and "respect for the views of the child", especially his or her rights to participate in the family, at school, within other institutions and in society in general. These principles should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large, including traditional communities and religious leaders, as well as educational programmes on the implementation of these principles should be reinforced.

19. The Committee expresses its concern at the insufficient measures taken by the State party in the area of birth registration, and at the lack of awareness and understanding of registration procedures, especially in rural areas. In the light of article 7 of the Convention, the Committee recommends that the State party take all available measures to ensure the immediate registration of the birth of all children. Furthermore, the Committee encourages the State party to ensure that birth registration procedures are widely made known to the population at large, if necessary in cooperation with non-governmental organizations and with the support of international organizations.

20. While the Committee welcomes the adoption of legislation on domestic violence, it remains concerned about persistent ill-treatment of children in the State party. Concern is also expressed at the insufficient awareness and lack of information, research, statistics and data on ill-treatment and abuse, including sexual abuse, both within and outside the family, at the insufficient legal protection measures and appropriate resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures for such children and their limited access to justice is also a matter of concern. In the light, inter alia, of articles 19 and 39 of the Convention, the Committee recommends that the State party take all appropriate measures to prevent and combat ill-treatment and sexual abuse of children within the family, schools and society at large. It suggests, inter alia, the setting up of social programmes to prevent all types of child abuse as well as the rehabilitation of child victims. Law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be developed.

21. While the Committee takes note of existing legislation prohibiting corporal punishment of children, it remains concerned that corporal punishment is still widely used within the family and in schools and institutions. In connection with the child's right to physical integrity, recognized by the Convention in its articles 19, 28, 29 and 37, the Committee recommends that the State party consider the possibility of undertaking educational campaigns. Such measures would help to change societal attitudes towards the use of physical punishment within the family and in schools and institutions.

22. While the Committee notes the inclusion of legislative measures on adoption in the Minors Code (1992), it remains concerned at the lack of adequate protection measures with regard to intercountry adoption. The Committee encourages the State party to consider acceding to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

23. The Committee expresses its concern at the situation of children living in institutions and of children living in penitentiary centres with one of their parents. Concern is also expressed at the lack of follow-up measures and of a system to monitor and evaluate the development of these groups of children. The Committee recommends that the State party take the necessary steps to establish alternatives to institutionalizing children (for example,

foster families), especially for those living with one of their parents in penitentiary centres. The Committee further recommends that the State party undertake follow-up measures and institute a monitoring and evaluation system to ensure the adequate development of these groups of children.

24. While the Committee notes with appreciation the efforts undertaken by the State party in the area of basic health, it is still concerned about the persistence of a high infant mortality rate and limited access of children to basic health services. Furthermore, the persistence of common childhood diseases (for example, gastro-intestinal and respiratory illnesses), increased malnutrition in children under five years of age and growing adolescent health-related problems, such as teenage pregnancy, smoking and alcohol consumption are also issues of concern. The Committee recommends that the State party take all appropriate measures, including seeking international cooperation, to ensure access to basic health care and services for all children and that adolescent health policy and programmes are developed, including prevention, care and rehabilitation measures. More concerted efforts need to be taken to combat malnutrition and ensure the adoption and implementation of a national nutritional policy for children.

25. While the Committee acknowledges the State party's policies for the protection of refugees, it remains concerned at the lack of specific provisions in its legislation concerning the rights of asylum seeking and refugee children and the right to family reunification. In the light of article 22 of the Convention, the Committee recommends that the State party adopt legislation to protect all the rights of asylum seeking and refugee children. Technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) might be requested in this regard.

26. The Committee is concerned about the situation of children living in the Chapare region, who are constantly exposed to the side effects of anti-narcotics interventions and live in a violent environment which has a negative impact on their development. The Committee recommends that the State party take appropriate measures to ensure the protection of children living in the Chapare region.

27. The Committee expresses its concern at the situation of children living in towns on the border with Chile, whose lives are threatened by landmines planted in that region. The Committee recommends that the State party take all necessary measures, including awareness-raising programmes on landmines and training for the population at large, for the protection of children living in these towns. In this regard, the Committee encourages the State party to consider seeking international cooperation, as well as conducting bilateral consultations for the clearance of landmines.

28. With regard to the Committee's concern (see CRC/C/15/Add.1, para. 9) at the situation with regard to child labour in the State party, the Committee takes note of the measures taken in this area, such as the signing of a memorandum of understanding (1996) between the State party and the International Labour Organization, and the establishment of a pilot education programme for working children, financed by the Inter-American Development Bank. Nevertheless, the Committee is still concerned that economic exploitation remains one of the major problems affecting children in the State

party. The Committee also reiterates its concern (see CRC/C/15/Add.1, para. 12) about the situation of children working and/or living on the streets. In the light of, inter alia, articles 3 and 32 of the Convention, the Committee recommends that the State party should not lower the minimum age for access to work. It encourages the State party to continue giving attention to the situation of children involved in hazardous labour, including domestic labour and prostitution, in order to protect them from being exploited and from the negative impact on their development. The Committee recommends that the State party undertake research on the issue of children living and/or working on the streets as a basis for adopting appropriate programmes and policies for the protection and rehabilitation of these children and the prevention of this phenomenon.

29. The Committee is concerned at the absence of data and of a comprehensive study on the issue of sexual exploitation of children. In the light of article 34 and related articles of the Convention, the Committee recommends that the State party undertake studies with a view to designing and implementing appropriate policies and measures, including care and rehabilitation, to combat the sexual exploitation of children. It also recommends that the State party reinforce its legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family. The Committee further recommends that the State party continue implementing the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress against Commercial Sexual Exploitation of Children.

30. With regard to the juvenile justice system in the State party, the Committee is concerned about its lack of full compatibility with articles 37, 40 and 39 of the Convention and with other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In particular, the Committee is concerned about the conditions of children living in special institutions, the use of violence by law enforcement officials, that deprivation of liberty is not systematically used as a measure of last resort and that children are detained together with adults. The Committee recommends that the State party envisage undertaking further measures to ensure the full compatibility of the juvenile justice system with the Convention, especially, articles 37, 40 and 39 and other relevant United Nations standards in this field. Particular attention should be paid to ensuring the improvement of the conditions of children living in special institutions, that violence is not used by law enforcement officials, that the use of deprivation of liberty is only used as a measure of last resort and that children are not detained together with adults. The Committee encourages the State party to consider ratifying the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Training programmes on the relevant international standards should be conducted for all professionals involved with the juvenile justice system. In this regard, the Committee further suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the Coordination Panel on Juvenile Justice.

31. Lastly, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that consideration be given to publishing the report, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and Parliament and among the general public, including concerned non-governmental organizations.